Customs Bulletin

Regulations, Rulings, Decisions, and Notices concerning Customs and related matters

and Decisions

of the United States Court of Customs and Patent Appeals and the United States Customs Court

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DEPARTMENT OF THE TREASURY
Bureau of Customs

NOTICE

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Bureau of Customs

(T.D. 73-183)

Cotton textiles—Restriction on entry

Restriction on entry of certain cotton textiles and textile products manufactured or produced in Pakistan

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., July 5, 1973.

There is published below the directive of June 29, 1973, received by the Commissioner of Customs from the Chairman, Committee for the Implementation of Textile Agreements, concerning the restriction on entry into the United States of certain cotton textiles and textile products manufactured or produced in Pakistan.

This directive was published in the Federal Register on July 2, 1973 (38 F.R. 17526), by the Committee.

(QUO-2-1-O:A:E:Q EU)

JOHN D. ROBISON,
Acting Director, Appraisement and Collections Division.

THE ASSISTANT SECRETARY OF COMMERCE
WASHINGTON, D.C. 20230
COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

June 29, 1973.

COMMISSIONER OF CUSTOMS
Department of the Treasury
Washington, D.C. 20229

DEAR MR. COMMISSIONER:

Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of May 6, 1970, as amended, between the Governments of the United States and Pakistan, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective July 1, 1973 and

for the twelve-month period extending through June 30, 1974, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1–27, as a group; Categories 28–64, as a group; and Categories 9/10, 15/16, 18/19 and part of 26, 22/23, parts of 26, part of 31, and 41/42, produced or manufactured in Pakistan, in excess of the following designated levels of restraint:

Category	*Twelve-Month Levels of Restraint*
1–27 (Group I)	80,278,275 square yards equivalent
28–64 (Group II)	10,819,850 square yards equivalent
9/10	38,411,300 square yards
15/16	3,252,375 square yards
18/19 and part of 26 (print cloth)[1]	16,952,600 square yards
22/23	4,334,400 square yards
Part of 26 (bark cloth)[2]	6,498,450 square yards
Part of 26 (duck)[3]	9,199,812 square yards
Part of 31 (only T.S.U.S.A. No. 366.2740)	5,175,695 pieces
41/42	445,303 dozen

In carrying out this directive, entries of cotton textiles and cotton textile products in the above categories, produced or manufactured in Pakistan and exported to the United States prior to July 1, 1973, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period July 1, 1972 through June 30, 1973. In the event that the levels of restraint established for that twelve-month period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Cotton textiles and cotton textile products in Categories other than 9/10, 15/16, 18/19 and part of 26 (printcloth),[1] 22/23, part of 26 (bark cloth),[2] part of 26 (duck),[3] part of 31 (only T.S.U.S.A. No. 366.2740) and 41/42, produced or manufactured in Pakistan and which have been exported to the United States prior to July 1, 1973, shall not be subject to this directive.

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[1] In Category 26, only T.S.U.S.A. Nos.:

320.—34	322.—34	327.—34
321.—34	326.—34	328.—34

[2] Only T.S.U.S.A. Nos.:

320.—88	325.—88	330.—88	323.—92	328.—92
321.—88	326.—88	331.—88	324.—92	329.—92
322.—88	327.—88	320.—92	325.—92	330.—92
323.—88	328.—88	321.—92	326.—92	331.—92
324.—88	329.—88	322.—92	327.—92	

[3] Only T.S.U.S.A. Nos.:

320.—01 through 04, 06, 08	326.—01 through 04, 06, 08
321.—01 through 04, 06, 08	327.—01 through 04, 06, 08
322.—01 through 04, 06, 08	328.—01 through 04, 06, 08

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of May 6, 1970, as amended, between the Governments of the United States and Pakistan which provide in part that within the aggregate and applicable group limits of the agreement, limits on certain categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above, will be made to you by letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the Federal Register on April 29, 1972 (37 F.R. 8802), as amended on February 14, 1973 (38 F.R. 4436).

In carrying out the above directive, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton textiles and cotton textile products from Pakistan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

ALAN POLANSKY,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance

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(T.D. 73-184)

Cotton textiles—Restriction on entry

Restriction on certain categories of cotton textiles manufactured or produced in Colombia

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., July 5, 1973.

There is published below the directive of June 13, 1973, received by the Commissioner of Customs from the Chairman, Committee for the

Implementation of Textile Agreements, concerning the restriction on entry into the United States of cotton textiles in certain categories manufactured or produced in Colombia.

This directive was published in the Federal Register on June 26, 1973 (38 F.R. 16931), by the Committee.

(QUO-2-1-O:A:E:Q HR)

JOHN D. ROBISON,
Acting Director, Appraisement and Collections Division.

THE ASSISTANT SECRETARY OF COMMERCE
WASHINGTON, D.C., 20230

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

June 13, 1973.

COMMISSIONER OF CUSTOMS
Department of the Treasury
Washington, D.C. 20229

DEAR MR. COMMISSIONER:

Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of June 25, 1971, between the Governments of the United States and Colombia, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective July 1, 1973 and for the twelve-month period extending through June 30, 1974, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1 through 27 produced or manufactured in Colombia, in excess of the levels of restraint set forth below.

The combined level of restraint for Categories 1 through 4 shall be 4,242,228 pounds.

The combined level of restraint for Categories 5 through 27 shall be 23,483,250 square yards.

Within the overall level of restraint for Categories 5 through 27, the following specific levels of restraint shall apply:

Category	*Twelve-Month Levels of Restraint*
5	1,914,422
6	382,885
9/10	5,003,421
16	1,148,654
19	1,276,282
22/23	8,379,000
26 (other than duck)[1]	4,032,394
26 (duck only)[2]	638,140
27	728,973

In carrying out this directive, entries of cotton textiles and cotton textile products in the above categories, produced or manufactured in Colombia, which have been exported to the United States prior to July 1, 1973, shall, to the extent of any unfilled balances be charged against the levels of restraint established for such goods for the twelve-month period beginning July 1, 1972 and extending through June 30, 1973. In the event that the levels of restraint established for that twelve-month period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of June 25, 1971, between the Governments of the United States and Colombia which provide in part that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above will be made to you by letter.

The bilateral agreement of June 25, 1971 also provides an overall limit on Categories 28 through 64. Import controls on these categories at an overall level of 1,102,500 square yards equivalent may be established during the current agreement year. In such an event, you will be advised by further letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the Federal Register on April 29, 1972 (37 F.R. 8802), as amended on February 14, 1973 (38 F.R. 4436).

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[1] Excluding T.S.U.S.A. Nos.:
320.—01 through 04, 06, 08
321.—01 through 04, 06, 08
322.—01 through 04, 06, 08
326.—01 through 04, 06, 08
327.—01 through 04, 06, 08
328.—01 through 04, 06, 08

[2] Including only those T.S.U.S.A. Nos. excluded by footnote 1.

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Colombia and with respect to imports of cotton textiles and cotton textile products from Colombia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance

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(T.D. 73-185)

Cotton textiles—Restriction on entry

Restriction on entry of cotton textiles and cotton textile products manufactured or produced in Yugoslavia

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., July 5, 1973.

There is published below the directive of June 21, 1973, received by the Commissioner of Customs from the Chairman, Committee for the Implementation of Textile Agreements, concerning the restriction on entry into the United States of certain cotton textiles and cotton textile products manufactured or produced in Yugoslavia. This directive amends but does not cancel that Committee's directive of December 29, 1972 (T.D. 73-30).

This directive was published in the Federal Register on June 29, 1973 (38 F.R. 17265), by the Committee.

(QUO-2-1-0:A:E:Q EU)

JOHN D. ROBISON,
Acting Director, Appraisement and Collections Division.

THE ASSISTANT SECRETARY OF COMMERCE
WASHINGTON, D.C. 20230

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

June 21, 1973.

COMMISSIONER OF CUSTOMS
Department of the Treasury
Washington, D.C. 20229

DEAR MR. COMMISSIONER:

This directive amends but does not cancel the directive issued to you on December 29, 1972 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton textiles and cotton textile products produced or manufactured in the Socialist Federal Republic of Yugoslavia.

Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral Cotton Textile Agreement of December 31, 1970 between the Governments of the United States and the Socialist Federal Republic of Yugoslavia, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to amend, effective as soon as possible, and for the period extending through December 31, 1973, the levels of restraint established in the aforesaid directive of December 29, 1972 for Categories 26 (other than duck) and 49, as set forth below:

Category	*Amended Twelve-Month Levels of Restraint*[1]
26 (other than duck)[2]	2,038,746 square yards
49	50,769 dozen

The actions taken with respect to the Government of the Socialist Federal Republic of Yugoslavia and with respect to imports of cotton textiles and cotton textile products from the Socialist Federal Republic of Yugoslavia, have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs being necessary to the implementation of such actions,

[1] These amended levels of restraint have not been adjusted to reflect any entries on or after January 1, 1973.

[2] The T.S.U.S.A. Nos. for duck fabric are:

320.—01 through 04, 06, 08	326.—01 through 04, 06, 08
321.—01 through 04, 06, 08	327.—01 through 04, 06, 08
322.—01 through 04, 06, 08	328.—01 through 04, 06, 08

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fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance

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(T.D. 73-186)

Bonds

Approval of consolidated aircraft bond (air carrier blanket bond) Customs Form 7005

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., July 9, 1973.

The following consolidated aircraft bond has been approved as follows:

Name of principal and surety	Date of bond	Date of approval	Filed with district director of customs; amount
Zantop International Airlines, Inc., Willow Run Airport, Ypsilanti, Mich., St. Paul Fire & Marine Ins. Co.	Feb. 26, 1973	June 8, 1973	Detroit, Mich.; $100,000

The foregoing principal has not been designated as a carrier of bonded merchandise.

(232.1)

LEONARD LEHMAN,
Assistant Commissioner, Office of Regulations and Rulings.

(T.D. 73-187)

Foreign currencies—Certification of rates

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., July 5, 1973.

The appended table shows the rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), which are applicable to the currencies of the countries listed in section 16.4(d), Customs Regulations (19 CFR 16.4(d)), for the period from June 25 through June 29, 1973. This table is published for the information and use of Customs officers and others concerned, and denotes those currencies which vary by 5 per centum or more from the quarterly rate published in T.D. 73-108.

(342.211)

JOHN D. ROBISON,
Acting Director, Appraisement and Collections Division.

[Published in the Federal Register July 16, 1973 (38 FR 18916)]

Country	Currency	June 25	June 26	June 27	June 28	June 29
Australia	Dollar	Q	Q	Q	Q	Q
Austria	Schilling	$0.0532	$0.0530	$0.0538	$0.0546	*
Belgium	Franc	.026775	.026850	.027150	.027609	$0.027624
Canada	Dollar	Q	Q	Q	Q	Q
Ceylon	Rupee	.1655	.1660	.1655	Q	Q
Denmark	Krone	.1720	.1720	.1745	.1770	.1765
Finland	Markka	Q	Q	Q	Q	.2695
France	Franc	.2363	.2361	.2375	.2404	.2410
Germany	Deutsche Mark	.3915	.3940	.3972	.4045	.4115
India	Rupee	Q	Q	Q	Q	Q
Ireland	Pound	Q	Q	Q	Q	Q
Italy	Lira	Q	Q	Q	Q	Q
Japan	Yen	Q	Q	Q	Q	Q
Malaysia	Dollar	Q	Q	Q	Q	Q
Mexico	Peso	Q	Q	Q	Q	Q
Netherlands	Guilder	.3691	.3711	.3749	.3790	.3815
New Zealand	Dollar	Q	Q	Q	Q	Q
Norway	Krone	.1840	.1835	.1860	.1890	.1890
Portugal	Escudo	.0426	.042650	.0427	.0429	*
Republic of S. Africa	Rand	1.4900	1.4880	Q	1.4890	1.4890
Spain	Peseta	Q	Q	Q	Q	Q
Sweden	Krona	.2383	.2389	.2415	.2454	.2465
Switzerland	Franc	.3279	.3287	.3296	.3310	.3415
United Kingdom	Pound	Q	Q	Q	Q	Q

Q Use quarterly rate published in T.D. 73–108; daily rate did not vary by 5 per centum or more.
*No quote.

(T.D. 73-188)

Antidumping—Synthetic menthionine from Japan

The Secretary of the Treasury makes public a finding of dumping with respect to synthetic menthionine from Japan. Section 153.43, Customs Regulations, amended

DEPARTMENT OF THE TREASURY,
Washington, D.C., July 3, 1973.

TITLE 19—CUSTOMS DUTIES

CHAPTER I—BUREAU OF CUSTOMS

PART 153—ANTIDUMPING

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to this authority the Secretary of the Treasury has determined that synthetic methionine from Japan is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). (Published in the Federal Register of February 15, 1973 (38 F.R. 4525).)

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the United States Tariff Commission responsibility for determination of injury or likelihood of injury. The United States Tariff Commission has determined, and on May 14, 1973, it notified the Secretary of the Treasury that an industry in the United States is being injured by reason of the importation of synthetic methionine from Japan sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. (Published in the Federal Register of May 18, 1973 (38 F.R. 13065).)

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to synthetic methionine from Japan.

Section 153.43 of the Customs Regulations is amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	*Country*	*T.D.*
Synthetic Methionine	Japan	73-188

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173.)
(APP-2-O:A:T-CH)

EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

[Published in the Federal Register July 10, 1973 (38 FR 18382)]

(T.D. 73-189)

Foreign currencies—Daily rates for countries not on quarterly list

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Hong Kong dollar, Iran rial, Philippine peso, Singapore dollar, Thailand baht (tical)

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., July 3, 1973.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates in U.S. dollars for the dates and foreign currencies shown below. These rates of exchange are published for the information and use of Customs officers and others concerned pursuant to section 16.4, Customs Regulations (19 CFR 16.4).

	Official	*Free*
Hong Kong dollar:		
June 4, 1973	$0.1960	$0.196174*
June 5, 1973	.1960	No rate
June 6, 1973	.1945	.197238*
June 7, 1973	.1950	.196560*
June 8, 1973	.1960	.196850*
Iran rial:		
June 18, 1973		$0.0146
June 19, 1973		.0146
June 20, 1973		.0146
June 21, 1973		.0146
June 22, 1973		.0145
Philippine peso:		
June 18, 1973		$0.1480
June 19, 1973		.1485
June 20, 1973		.1485
June 21, 1973		.1485
June 22, 1973		.1485

*Certified as nominal.

Singapore dollar:

June 18, 1973	$0.4030
June 19, 1973	.4030
June 20, 1973	Unavailable
June 21, 1973	.4150
June 22, 1973	.4200

Thailand baht (tical):

For the period June 18 through June 22, 1973, rate of $0.0480.

(342.211)

JOHN D. ROBISON,
Acting Director, Appraisement and Collections Division.

(T.D. 73-190)

Foreign currencies—Quarterly list of rates of exchange

Lists of buying rates in U.S. dollars certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for use during the quarter shown

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., July 5, 1973.

The appended table lists the buying rates in U.S. dollars for certain foreign currencies first certified to the Secretary of the Treasury by the Federal Reserve Bank of New York under the provisions of section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), for a day in the quarter shown. These rates of exchange are published for the information and use of Customs officers and others concerned pursuant to section 16.4, Customs Regulations (19 CFR 16.4).

(342.211)

R. N. MARRA,
Director, Appraisement and Collections Division.

505-476—73——3

List of values of foreign currencies certified to the Secretary of the Treasury by the Federal Reserve Bank of New York under provisions of section 522(c), Tariff Act of 1930, as amended

QUARTER BEGINNING JULY 1 THROUGH SEPTEMBER 30, 1973

Country	Name of currency	U.S. dollars
Australia	Dollar	$1.4200
Austria	Schilling	.0571
Belgium	Franc	.027800
Canada	Dollar	1.0007
Ceylon	Rupee	.1650
Denmark	Krone	.1770
Finland	Markka	.2695
France	Franc	.2435
Germany	Deutsche Mark	.4169
India	Rupee	.1370
Ireland	Pound	2.5802
Italy	Lira	.001724
Japan	Yen	.003770
Malaysia	Dollar	.4225
Mexico	Peso	.0800
Netherlands	Guilder	.3828
New Zealand	Dollar	1.3205
Norway	Krone	.1901
Portugal	Escudo	.0435
Republic of S. Africa	Rand	1.4850
Spain	Peseta	.017232
Sweden	Krona	.2487
Switzerland	Franc	.3460
United Kingdom	Pound	2.5802

(T.D. 73-191)

Cotton textiles—Restriction on entry

Restriction on category 63, cotton textile products manufactured or produced in Belize (formerly British Honduras)

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., July 11, 1973.

There is published below the directive of June 28, 1973, received by the Commissioner of Customs from the Chairman, Committee for the Implementation of Textile Agreements, concerning the restriction on entry into the United States of cotton textile products in category 63 manufactured or produced in Belize (formerly British Honduras).

This directive was published in the Federal Register on July 3, 1973 (38 F.R. 17760), by the Committee.

(QUO-2-O:A:E:Q EU)

R. N. MARRA,
Director, Appraisement and Collections Division.

THE ASSISTANT SECRETARY OF COMMERCE
WASHINGTON, D.C. 20230
COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

June 28, 1973.

COMMISSIONER OF CUSTOMS
Department of the Treasury
Washington, D.C. 20229

DEAR MR. COMMISSIONER:

Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6(c) thereof relating to nonparticipants, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective June 29, 1973, and for the twelve-month period extending through June 28, 1974, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 63, produced or manufactured in Belize (formerly British Honduras), in excess of a level of restraint for the period of 631,743 pounds.

In carrying out this directive, entries of cotton textile products in Category 63, produced or manufactured in Belize, which have been exported to the United States from Belize prior to June 29, 1973, shall, to the extent of any unfilled balances, be charged against the

level of restraint established for such goods during the period June 29, 1972 through June 28, 1973. In the event that the level of restraint established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this letter.

A detailed description of Category 63 in terms of T.S.U.S.A. numbers was published in the Federal Register on April 29, 1972, (37 F.R. 8802), as amended on February 14, 1973 (38 F.R. 4436).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Belize and with respect to imports of cotton textiles and cotton texile products from Belize have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

ALAN POLANSKY,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance

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(T.D. 73-192)

Foreign currencies—Daily rates for countries not on quarterly list

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Hong Kong dollar, Iran rial, Philippine peso, Singapore dollar, Thailand baht (tical)

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., July 9, 1973.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates in U.S. dollars for the dates and foreign currencies shown below. These rates of exchange are published for the information and use of Customs officers and others concerned pursuant to section 16.4 Customs Regulations (19 CFR 16.4).

	Official	*Free*
Hong Kong dollar:		
June 11, 1973	$0.1985	$0.196753*
June 12, 1973	.1945	.196608*
June 13, 1973	.1955	.196319*
June 14, 1973	.1975	.195982*
June 15, 1973	.1950	.197190*
Iran rial:		
June 25, 1973		$0.0146
June 26, 1973		.0150
June 27, 1973		.0149
June 28, 1973		.0146
June 29, 1973		.0149
Philippine peso:		
June 25, 1973		$0.1480
June 26, 1973		.1480
June 27, 1973		.1485
June 28, 1973		.1480
June 29, 1973		.1480

Singapore dollar:

For the period June 25 through June 29, 1973, rate of $0.4200.

Thailand baht (tical):

For the period June 25, 1973, rate of $0.0480.

(LIQ-3-0:A:E)

R. N. MARRA,
Director, Appraisement and Collections Division.

*Certified as nominal.

United States Customs Court

ORDER GRANTING EXTENSION OF TIME TO DEFENDANT TO ANSWER COMPLAINTS IN CERTAIN ACTIONS REMOVED FROM THE OCTOBER 1970 RESERVE FILE.

WHEREAS in a report under date of June 22, 1973, submitted by the Defendant to this Court with respect to the status of the October 1970 Reserve File and specifically the cases removed therefrom, it appears that approximately 7,247 complaints remain to which answers can not be interposed on or before July 1, 1973, as required by the prior Order of this Court under date of February 27, 1973, and

WHEREAS the Defendant in requesting an additional extension of time to October 1, 1973, in which to answer said complaints advises the Court that no further extensions of time will be sought, if the Court sees fit to grant the present request so made by the Defendant

NOW THEREFORE, it is hereby ordered that the time to answer those certain complaints above-referred to be and is hereby extended to October 1, 1973, it being understood that no further extensions of time with respect thereto shall hereafter be granted, and

IT IS FURTHER ORDERED that periodic reports be continued to be furnished to this Court by the Defendant during the extended period of time as herein provided.

Dated at New York, New York this 25th day of June 1973.

By the Court,

NILS A. BOE,
Chief Judge.

Decisions of the United States Customs Court

Protest Decisions

(C.D. 4434)

CHESTER S. BRETT, INC. *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 65/19328

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.

Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: Plaintiff has moved for summary judgment in this case in which the central issue is whether duty was properly assessed on the full invoiced quantity of imported merchandise or whether it should have been assessed on a lesser quantity.

For the purposes of this motion, the official papers are entered into evidence and the record in *Harry N. Bloomfield Co.* v. *United States*, 58 CCPA 160, C.A.D. 1023 (1971), is incorporated herein pursuant to plaintiff's motion.

Plaintiff relies entirely on the presence on the customs entry permit of a report by the customs inspector that a certain quantity of merchandise was "manifested not found." Under similar circumstances our appellate tribunal has recently found that in the absence of evidence to the contrary, the "logical and most likely inference" to be made from such a report is that the merchandise in question was not landed. *Harry N. Bloomfield Co.* v. *United States*, 58 CCPA 160, C.A.D. 1023 (1971). The CCPA further noted that when it is established that the merchandise was in customs custody up until the time of the report "the only reasonable and fair conclusion is that a prima facie case of nonimportation has been made."

In opposition to plaintiff's motion, defendant argues that a prima facie case has not been established and further that if it has it is insufficient to support the granting of judgment. Finally, defendant opposes the granting of the motion on the ground that it is in the process of conducting discovery to develop evidence to support its position on the question of nonimportation and argues by analogy *Gimbel Bros., Inc.* v. *United States*, 69 Cust. Ct. 329, C.R.D. 72–25 (1972), that plaintiff's motion ought not to be interposed in derogation of defendant's pretrial discovery.

I am of the opinion that plaintiff's motion is well taken and defendant's opposition thereto is without merit. I see no distinctions between the instant case and that decided by the CCPA in *Harry N. Bloomfield Co.* v. *United States*, *supra*. A report by the responsible customs officer that certain merchandise was manifested but not found, which report is made at a time when the importer's possession of the importation has not yet taken place and at the conclusion of a period when the merchandise has been in customs custody, is reasonable proof of nonimportation. In the absence of countervailing proof such evidence is adequate to support a finding of nonimportation and should certainly suffice to support a motion for summary judgment.

The only correct way to oppose this motion would be for the defendant to come forward with proof of some sort that an importation of the full quantity in question did indeed take place.

This situation is not comparable to that which prevailed in *Gimbel Bros., Inc.* v. *United States*, *supra*. There, defendant was essentially

asking only for additional time to respond to a motion for summary judgment on the ground that it could not oppose the motion without discovery of facts which appeared to be "exclusively in the possession of plaintiff." Here, defendant is seeking the denial of the motion for summary judgment and the continuation of its discovery under circumstances in which the information useful to defendant can hardly be thought to be exclusively within the possession of plaintiff and is more likely within the defendant's own area of resources.

In any event, I do not see why defendant's desire to litigate a certain issue at trial should obviate its responsibility to oppose a properly made motion for summary judgment which raises that issue prior to trial and which contains sufficient proof to warrant a judgment on that issue in plaintiff's favor. If defendant anticipates obtaining countervailing proof on the question of importation it must muster such proof in opposition to the motion for summary judgment and not insist on the denial of the motion in favor of defendant's right to proceed to develop its proofs for trial.

In conclusion, I find that there is no genuine issue of fact to be tried in this case, since the evidence upon which plaintiff relies is sufficient to prove that the quantity reported as manifested but not found was not imported. I further conclude that plaintiff is entitled to judgment as a matter of law and it is hereby

ORDERED that the plaintiff's motion for summary judgment be and the same hereby is, granted; and it is further

ORDERED that the district director reliquidate the entry involved herein and in so doing make an allowance for the merchandise reported as manifested but not found.

(C.D. 4435)

DOLLIFF & COMPANY, INC. *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 67/37941

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.

Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4436)

M. H. GARVEY COMPANY *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 67/65988

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4437)

A. H. HELMIG & CO., INC. *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 67/63940

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4438)

HUB FLORAL MFG. CO. *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 68/29761

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4439)

GEO. E. KEITH CO. *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 69/20522

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4440)

NICHOLAS & CO., INC. *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 65/19318

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4441)

NICHOLAS & CO., INC. *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 65/19319

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4442)

PISTORINO & COMPANY, INC. *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 67/65473

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sander*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4443)

PRIMA FOODS, INC. *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 68/43653

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4444)

W. N. PROCTOR CO. *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 65/19341

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4445)

W. N. PROCTOR COMPANY *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 66/4278 and 10 others

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4446)

IRVING M. SOBIN CHEMICAL CO., INC. *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 66/7958

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4447)

IRVING M. SOBIN CHEMICAL CO., INC. *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 66/7960

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4448)

IRVING M. SOBIN CHEMICAL CO., INC. *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 66/7961

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4449)

IRVING M. SOBIN CHEMICAL CO., INC. *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 66/7962

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4450)

IRVING M. SOBIN CHEMICAL CO., INC. *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 66/7963

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4451)

IRVING M. SOBIN CHEMICAL CO., INC. *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 67/70473

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4452)

E. SIDNEY STOCKWELL COMPANY, INC. *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 67/37960

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4453)

E. SIDNEY STOCKWELL COMPANY, INC. *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 67/51817

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4454)

E. SIDNEY STOCKWELL COMPANY *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 70/63856

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4455)

SWANK, INC. *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 70/64010

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4456)

THE TOP COMPANY, INC. *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 65/19312 and 47 others

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4457)

WOOL DISTRIBUTING CORP. *v.* UNITED STATES

Opinion and Order Re: Plaintiff's Motion for Summary Judgment

Court No. 66/4265 and 2 others

Port of Boston

[Motion granted.]

(Dated June 25, 1973)

Walter E. Doherty, Jr., for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the defendant.

WATSON, Judge: For opinion see C.D. 4434.

(C.D. 4458)

ALDRICH CHEMICAL COMPANY, INC. *v.* UNITED STATES

Chemicals

HALOHYDRIN—DEFINITION

The tariff term "halohydrin" is defined as a chemical compound derivable from a glycol which contains one or more halogens attached to separate carbon atoms and one or more hydroxyl groups.

Protest Nos. 70/11496, 70/11497 and 70/14965 against the decision of the district director of customs at the port of Milwaukee

[Judgment for plaintiff.]

(Decided June 26, 1973)

Foley & Lardner (*Marvin E. Klitsner, Bernard E. Edelstein* and *John S. Skilton* of counsel) for the plaintiff.

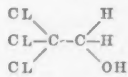
Harlington Wood, Jr., Assistant Attorney General (*Joseph I. Liebman*, trial attorney), for the defendant.

WATSON, Judge: These three cases, consolidated for the purpose of trial, place in issue the tariff classification of a chemical importation known as trichloroethanol, hereafter referred to as "TCE". This chemical compound was classified pursuant to item 428.26 as other halohydrins dutiable at the rate of 2.4 cents per pound plus 12 per centum ad valorem. Plaintiff claims that the importation should have been classified pursuant to item 429.95 as other organic compounds dutiable at the rate of 8 per centum ad valorem.

Plaintiff bases its opposition to the classification on an argument that the importations in question do not fall within the definition of the term "halohydrin". In support of this assertion and to establish a definition of the term "halohydrin", the testimony of Dr. Alfred Bader, a chemist and president of the plaintiff, as well as the testimony of Dr. Frank Brown, Jr., senior organic chemist at Eli Lilly & Co., was offered. In defense of the classification, defendant offered a definition of "halohydrin" in testimony by Dr. Stewart W. Fenton, professor of chemistry at the University of Minnesota.

Plaintiff's definition of halohydrin is that it is a compound which can be derived from a glycol and which contains one or more halogens (each of which must be on separate carbon atoms) and one or more hydroxyl groups.[1]

The consequence of this definition as opposed to the conflicting definition by defendant (to be discussed later) is best understood if viewed with reference to the molecular structure of the importation which is as follows:



[1] A short glossary will be useful in understanding the discussion herein.

Glycol – a compound containing two hydroxyl groups, each hydroxyl group attached to a different carbon atom.

Hydroxyl group – a hydrogen atom attached to an oxygen atom.

Halogen – a family of atoms of which the most common are chlorine, fluorine and iodine.

Polyhydric alcohol – a chemical compound containing two or more hydroxyl groups attached to separate carbon atoms (every glycol is a polyhydric alcohol but not every polyhydric alcohol is a glycol).

According to plaintiff, it would be impossible for the above diagramed compound to have been derived from a glycol or polyhydric alcohol. Such a predecessor compound would have to have had three hydroxyl groups in the position now occupied by the chlorine atoms, a circumstance which is chemically impossible as is set out in the following excerpt from Dr. Bader's testimony.

> Q. Now, in a glycol or polyhydric alcohol, can there ever be more than one hydroxyl group attached to one carbon?—A. No. If you have two hydroxyl groups attached to one carbon of a glycol, that cannot exist. It splits out the element of water and so you can only have in a glycol, one hydroxyl group attached to one carbon atom.
>
> Q. Would your answer apply equally to a polyhydric alcohol which has more than two hydroxyl groups?—A. Yes.
>
> Q. That being true, can you ever form a chlorohydrin or halohydrin in which there will be more than one chlorine atom attached to a single carbon?—A. No.

It would follow from plaintiff's definition that the imported TCE, not being derivable from a glycol, is not a halohydrin.

Defendant offered a definition of halohydrin as an organic compound containing a hydroxyl group and a halogen which are located on adjacent saturated carbon atoms. The definition would include the importation.

As a result of my study of my testimony and the cited authorities, it is my opinion that defendant's definition is incomplete and the classification based thereon is incorrect. I am further persuaded of the correctness of plaintiff's claim. Most of the cited authorities and encyclopedias define halohydrins by reference to the glycols on which their structure is based. Thus, for example, the *Encyclopedia of Chemical Technology*, Kirk-Othmer, Vol. 3 at 850 (1949) states as follows:

> The chlorohydrins belong to the larger class of halohydrins that contain within their molecule one or more halogen atoms and one or more alcoholic hydroxyl groups. They may be considered to be derived from glycols and polyhydric alcohols by replacement of at least one hydroxyl group by halogen. * * *

The definition of chlorohydrins by reference to their possible derivation from glycols is the only method of definition brought to the attention of this court which offered a full measure of accuracy and clarity, in distinguishing between what falls within the term halohydrin and what falls without. Defendant's definition failed to do this. For example, the compounds of trimethylene chlorohydrin has the following chemical formula:

$$CL—CH_2\,CH_2\,CH_2\,OH$$

It is an organic compound containing a hydroxyl group and a halogen which, however, are *not* located on adjacent saturated carbon

atoms. By defendant's definition, this compound would therefore not be a halohydrin. In point of fact, it is specifically listed as one of the examples of a halohydrin in the aforementioned *Encyclopedia of Chemical Technology*. This tends to indicate a serious shortcoming in defendant's definition of halohydrin.

For tariff purposes, it is essential that terms be defined, not in a loose descriptive manner, but in a rigorous, limiting and circumscribed manner. Of the proffered definitions, only plaintiff's satisfies the necessary standards.

In linking the definition of halohydrin to potential derivation from glycols, I do not mean to suggest that halohydrins must, in fact, have been derived in that manner. In reality they may have been derived by a number of diverse methods. However, it is essential in my understanding of the term, that the halohydrin must be theoretically derivable from a glycol, a circumstance precluded by the attachment of a multiplicity of halogen atoms to a single carbon atom in the importation. On this point I am effectively persuaded by the testimony of plaintiff's witnesses.

Reference has been made to the entry in the *Chemical Abstracts* of the American Chemical Society which refers to halohydrins in Volume 56 of the 1962 edition as follows:

> Halohydrins are named as halogen derivatives of the corresponding hydroxy compounds, as in the examples below, unless a functional group higher (in the order of precedence) than alcohol is present.

Although I have no quarrel with the authoritative stature of this reference work, and have, in fact, on occasion found it helpful in clarifying statutory language (see for example, *Aldrich Chemical Company, Inc.* v. *United States*, 62 Cust. Ct. 333, C.D. 3758, 297 F. Supp. 1389 (1969)), I do not consider it to be definitive in all situations. In this instance I consider its usefulness to be limited to an attempt to arrive at a coherent method of describing certain chemical compounds. This point was reinforced during the cross-examination of defendant's witness at which time defendant's witness conceded that p-chlorophenethyl alcohol, a compound illustrated in exhibit 5, although not a halohydrin would be named pursuant to the above quoted entry from *Chemical Abstracts*. This tends to indicate that a chemical compound which is not a halohydrin is nevertheless named pursuant to the method for naming halohydrins by reason of its being derived from an alcohol by the use of a halogen. On the whole, this example, together with the persuasive testimony of plaintiff's witnesses, convinces me that in this instance the *Chemical Abstracts* is not determinative or definitive regarding the meaning of the term "halohydrin".

In sum, I am more favorably impressed with the testimony offered on behalf of the plaintiff than I am with that offered by defendant. The former is more internally consistent, more complete and more in conformity with the chemical reference works and other lexicographic authorities. I therefore conclude that the term "halohydrin" as used in the tariff schedules refers to chemical compounds which are derivable from existing glycols and which contain one or more halogens attached to separate carbon atoms and one or more hydroxyl groups.

The above considerations lead me to conclude that the importation is not a halohydrin and was incorrectly classified pursuant to item 428.26. I further conclude that the importation, admittedly an organic compound, is properly classifiable pursuant to item 429.95 as other organic compounds and is dutiable at the rate of 8 per centum ad valorem.

Judgment will issue accordingly.

(C.D. 4459)

TRANS-ATLANTIC COMPANY *v.* UNITED STATES

Hardware

Iron shelf brackets claimed to be properly subject to classification under item 609.84, Tariff Schedules of the United States, as angles, shapes and sections, drilled, punched or otherwise advanced, or alternatively under item 652.94, *supra*, as columns, pillars, posts, beams, girders and similar structural units *held* properly classified under item 647.03, *supra*, as hinges, fittings and mountings, etc.

The language of the superior heading to item 609.84 is a clear indication of an intent to include an advancement even to the point as long as the article remains material. *Commercial Shearing & Stamping Company* v. *United States* (*Guadalupe Industrial Supply Company, Inc., Party-in-Interest*), 65 Cust. Ct. 91, C.D. 4060, 317 F. Supp. 750 (1970), *aff'd*, 59 CCPA 203, C.A.D. 1067 (1972).

The imported merchandise is a finished article known in the trade as a shelf bracket and has passed the State of being material. Such an article is not within the purview of item 609.84, *supra*.

Shelf brackets are not structural units within the language of item 652.94, *supra*, as they do not support a structure. The fact that they are attached to a structure does not make them a structural unit even though they are able to bear a maximum load with a minimum of material. *United States* v. *Humble Oil & Refining Co., Leslie B. Canion, et al*, 46 CCPA 138, C.A.D. 717 (1959).

United States Customs Court, Second Division

Protest 67/74817 against the decision of the district director of customs at the port of Philadelphia

[Judgment for defendant.]

(Decided June 28, 1973)

Allerton deC. Tompkins for the plaintiff.

Harlington Wood, Jr., Assistant Attorney General (*Urban Mulvehill, Andrew P. Vance, Joseph I. Liebman*, and *John A. Gussow*, trial attorneys), for the defendant.

Before RAO, FORD, and NEWMAN, Judges

FORD, Judge: This case involves the proper classification of metal shelf brackets described on the invoice as "1230X1 Shelf Brackets Black Jap" which were classified under item 647.03, Tariff Schedules of the United States, which provides as follows:

	Hinges; and fittings and mountings not specially provided for, suitable for furniture, doors, windows, blinds, staircases, luggage, vehicle coach work, caskets, cabinets, and similar uses; all the foregoing, of base metal, whether or not coated or plated with precious metal:	
	Not coated or plated with precious metal:	
	Of iron or steel, of aluminum, or of zinc:	
*	* * * * * * *	
647.04	Other	19% ad val.

Plaintiff in its original protest and by amendment has set forth numerous claims. However, only two claims are pressed and the others are therefore deemed abandoned and are accordingly dismissed. The primary claim of plaintiff is under item 609.84, Tariff Schedules of the United States, which reads as follows:

Schedule 6, part 2, subpart B:

Subpart B headnotes:

1. This subject covers iron and steel, their alloys, and their so-called basic shapes and forms, and in addition covers iron or steel waste and scrap.

* * * * * * *

3. Forms and Condition of Iron or Steel.—For the purposes of this subpart, the following terms have the meanings hereby assigned to them:

* * * * * * *

(d) Bars: Products of solid section not conforming completely to the respective specifications set forth herein for blooms, billets, slabs, sheet bars, wire rods, plates, sheets, strip, wire, rails, joint bars, or tie plates, and which have cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons. Deformed concrete reinforcing bars are hot rolled steel bars, of solid cross section, having deformations of various patterns on their surfaces.

* * * * * * *

(j) Angles, shapes, and sections: Products which do not conform completely to the respective specifications set forth herein for blooms, billets, slabs, sheet bars, bars, wire rods, plates, sheets, strip, wire, rails, joint bars, or tie plates, and do not include any tubular products.

* * * * * * *

	Angles, shapes, and sections, all the foregoing, of iron or steel, hot rolled, forged, extruded, or drawn, or cold formed or cold finished, whether or not drilled, punched, or otherwise advanced; sheet piling of iron or steel:	
	Angles, shapes, and sections:	
	Hot rolled; or, cold formed and weighing over 0.29 pound per linear foot:	
* * * * * * *		
	Drilled, punched, or other advanced:	
609.84	Other than alloy iron or steel	7.5% ad val.

Alternatively, plaintiff contends the involved shelf brackets are properly subject to classification under the following language contained in item 652.94, Tariff Schedules of the United States:

	Hangars and other buildings, bridges, bridge sections, lock-gates, towers, lattice masts, roofs, roofing frameworks, door and window frames, shutters, balustrades, columns, pillars, and posts, and other structures and parts of structures, all the foregoing of base metal:	
	Of iron or steel:	
* * * * * * *		
	Columns, pillars, posts, beams, girders, and similar structural units:	
	Not in part of alloy iron or steel:	
* * * * * * *		
652.94	Other	7.5% ad val.

The record consists of the testimony of two witnesses, one called on behalf of each party, three exhibits, plaintiff's exhibit 1 and defendant's exhibits A and B, the official papers which were received in evidence without being marked and the following stipulations approved by the court:

> IT IS HEREBY STIPULATED AND AGREED by and between counsel for the Plaintiff and the Assistant Attorney General for the United States, Defendant, subject to the approval of the court, that the articles under protest, invoiced as "1230X1 Shelf Bracket Black Jap", have been cold formed, weigh over 0.29 pound per linear foot, and are composed of iron, not alloy iron. They are made in one piece of "T"-iron, and, to produce the imported item, a portion of the edge or web (leg of the "T") between the wall and the supporting surface has been removed, and the iron has then been bent and the edges (along the portion that has been removed) have been brought together and welded. The shelf brackets, in use, are attached to some strong part of a structure, and, as attached, are used to support, among other things, heavy shelves and seats.
>
> It is hereby stipulated and agreed by and between counsel for the plaintiff, and the Assistant Attorney General for the United States, defendant, that the articles under protest, invoiced as "1230X1 Shelf Bracket Black Jap" are commonly known as "shelf brackets", and they are able to bear a load of 250 kilograms on the middle of the supporting flange.

Richard Muenzer, vice president of plaintiff, was called to identify a sample of the imported shelf brackets which was received in evidence as plaintiff's exhibit 1. The witness testified exhibit 1 came out of the involved shipment but was painted after importation by error. At the time of importation, the bracket had a "black Japan finish" which is a black high gloss finish.

Defendant called as its witness, Lewis Gibbs, product administrator for structural and plate products for United States Steel Corporation. Mr. Gibbs holds a degree in civil engineering and has taken courses in metallurgy and advanced business administration. The witness' positions with United States Steel required him to be thoroughly familiar with the types of products with which he was working. He is also familiar with the processes and operations performed upon the products which his firm sells. The witness having worked in the mill during his first two years of employment is familiar with the operation of the production of blooms and billets, slabs and sheet bars, bars, wire rods, plates and sheets, strip, wire, rails, joint bars, tie plates, angles, shapes and sections, all of which have a uniform cross section.

Based upon an examination of plaintiff's exhibit 1, Mr. Gibbs testified he is able to determine the basic iron or steel form used to make said exhibit as well as the processes used. The basic form, accord-

ing to the witness, is a rolled tee similar to the article produced by his company and received in evidence as defendant's exhibit A. A rolled tee is produced as follows:

> THE WITNESS: A steel billet—let us say it is approximately five inches square—is heated to approximately twenty-two hundred degrees Fahrenheit and passed through a series of rolls which successively roll it down to this shape and in order to accomplish that, the finished section must be of uniform cross section throughout its length.
>
> BY MR. LIEBMAN: (Cont'g)
>
> Q. By uniform cross section, what do you mean?—A. I mean that if you cut it transversely at any point along its length, the cross section would be the same throughout.
>
> Q. In other words, it will always appear to be a "T" as you face the article from its end?—A. Yes.

A rolled tee, Mr. Gibbs testified, is not capable of being further rolled but it may be fabricated. Fabrication involves cutting, bending, drawing, welding, riveting or joining. Mr. Gibbs also testified that he is familiar with the terms "angles, shapes and sections" and that all have the common characteristic of a uniform cross section. A rolled section such as exhibit A conforms to the definition of "bar" contained in headnote 3(d) and "angles, shapes and sections" in headnote 3(j) of subpart B, part 2 of schedule 6 of the Tariff Schedules of the United States.

While geometrically exhibit 1 is an angle, it does not fit what is commonly known to be an angle in steel mill terminology according to witness Gibbs. Defendant's exhibit B is an angle in steel mill terminology. Said exhibit is produced by hot-rolling a billet down to this shape which has a uniform cross section.

On cross-examination, Mr. Gibbs testified that drilling or punching holes is fabrication which removes the article from the designation of shape. A half round is a bar but is not a shape. The witness admitted he had never been in the producer's plant in Denmark and does not know if the rolled tee produced by that firm had a uniform cross section. The bending or drilling of a tee bar destroys its status as a shape.

The question of the necessity of a uniform cross section for angles, shapes and sections under items 609.80–609.90, Tariff Schedules of the United States, as urged by defendant in its brief, and the testimony adduced by it from Mr. Gibbs, as well as the information contained in the Tariff Classification Study – Seventh Supplemental Report will first be considered.

In the case of *Pistorino & Company, Inc.* v. *United States*, 69 Cust. Ct. 48, C.D. 4373, 350 F. Supp. 1392 (1972), the same argument was

advanced by the defendant, and the court made the following observation:

> Defendant contends that in order to be classifiable under item 609.88, *supra*, the articles must have a uniform cross section throughout their length as indicated in the Seventh Supplemental Report to the Tariff Classification Study. It is to be noted that neither headnote 3(j) nor the items themselves contain such a requirement. Therefore, the Tariff Commission's report, even if considered part of the legislative history, cannot add a requirement not included in the statute itself. *American Customs Brokg. Co., Inc., a/c Hamakua Mill Co.* v. *United States*, 58 CCPA 45, C.A.D. 1002 (1970); *Great Western Sugar Co., et al.* v. *United States*, 59 CCPA 56, C.A.D. 1038 (1972). Some of the definitions in headnote 3, i.e., 3(b), 3(c), 3(d), 3(e), 3(f), 3(i), and 3(k) refer to cross-section requirements. An omission to make any reference to cross section in headnote 3(j), covering angles, shapes and sections, cannot be considered an oversight.

The court reaffirms its position taken in the *Pistorino* case, *supra*, that uniform cross section is not a requirement included in the statute.

Based upon the record, it is uncontroverted that the shelf bracket involved is made from a rolled tee and that a rolled tee fits within the definition of "bar" as contained in the headnote 3(d), *supra*. However, the shelf bracket does not in its present condition conform to said definition.

Since headnote 3(j), *supra*, defines angles, shapes and sections as those products such as bars, which do not conform to the specifications set forth, the next consideration is whether the imported shelf brackets are angles, shapes and sections as provided for in item 609.84, *supra*. If the merchandise involved is one of these items, it does meet the requirements of being cold formed, weighing over 0.29 pound per linear foot, is drilled, punched or otherwise advanced, and is made of other than alloy, iron or steel.

Defendant contends that while the rolled tee, from which the shelf bracket is made, is a basic shape or form, the importation is a completely fabricated article upon which no further work is required to fit it for its specific use and therefore is an article of commerce and no longer a basic shape or form. *Stengel* v. *United States*, 2 Ct. Cust. Appls. 137, T.D. 31663 (1911).

It is noted that the superior heading to item 609.84, *supra*, contains the language "whether or not drilled, punched, or otherwise advanced." This is a clear indication of an intent to include an advancement even to the point of dedication so long as the article remains material. *Commercial Shearing & Stamping Company* v. *United States* (*Guadalupe Industrial Supply Company, Inc., Party-in-Interest*), 65 Cust. Ct. 91, C.D. 4060, 317 F. Supp. 750 (1970), *aff'd*, 59 CCPA 203, C.A.D. 1067 (1972).

The imported merchandise is without dispute a finished article known in the trade as a shelf bracket. It has therefore passed the state of being material and is in fact a separate and distinct article of commerce. Such an article is not within the purview of item 609.84, *supra*.

The alternative contention of plaintiff under item 652.94, *supra*, which provides for columns, pillars, posts, beams, girders and similar structural units has been rejected under the provisions of the Tariff Act of 1930 for merchandise such as is involved herein. *The West Coast Mercantile Co.* v. *United States*, 60 Cust. Ct. 397, C.D. 3399, 283 F. Supp. 412 (1968); *West Coast Mercantile Co.* v. *United States*, 56 Cust. Ct. 466, C.D. 2680 (1966).

In the case at bar, the statutory language of the Tariff Schedules of the United States is sufficiently similar to the language of the Tariff Act of 1930 for the court to utilize the decisions under the latter. The change of the language in the Tariff Schedules of the United States to "structural units" rather than "structural shapes" in the Tariff Act of 1930 does not materially affect the prior judicial decisions insofar as they relate to the merchandise involved.

In the decision in the case of *United States* v. *Humble Oil & Refining Co., Leslie B. Canion, et al.*, 46 CCPA 138, C.A.D. 717 (1959), it was stated:

> * * * Whether a particular article falls within the meaning of that term [structural shapes] must be determined on the basis of the particular circumstances of the case under consideration, including the purpose for and manner in which the article is used, as well as whether or not it forms a part of a structure.

Considering the foregoing principles, in light of the merchandise under consideration, the court finds the purpose of the shelf brackets as stipulated is to "support, among other things, heavy shelves and seats." The manner of attachment was stipulated as being "attached to some strong part of a structure." The parties further stipulated that said brackets "are able to bear a load of 250 kilograms on the middle of the supporting flange."

In *West Coast Mercantile*, C.D. 3399, *supra*, the court quoted from the prior case, C.D. 2680, *supra*, as follows:

> * * * The court held that shelf brackets were not structural shapes within the meaning of paragraph 312, *supra*, stating (pp. 475–476):
>
> The cases decided on the subject at bar afford a faithful interpretation of the congressional intent and of what was meant by the words of the statute to embrace structural shapes. We are quite aware that a structure may be a building, a ship, a bridge, an oil well casing, a scaffolding, an airplane approach, or an iron bedstead, all among the innumerable possible kinds of struc-

tures, comprised of parts called structural members which are structural shapes. To be such a member, the prime purpose of the article must be to support the structure of which it is a part. It is, thus, not enough to say that bolts, nuts, nails, couplings, etc., are an integral part of a structure and, thus, are structural shapes. Integral as those articles are, their prime purpose is to *join together*, but they themselves are not structural members. Being integral alone, therefore, is *not enough to establish classification.* Unquestionably these articles lend strength to the structure, but such strength and support are incidental to their prime purpose. [Emphasis quoted.]

Referring to the shelf brackets in issue, the court added (pp. 476–477):

> * * * We, however, do not accept that the said exhibits are such angles as are named in paragraph 312 of the tariff act, or that the *eo nomine* provision of the said paragraph for angles contemplated all angles of iron or steel without regard for their purpose. The paragraph contemplates angles which are structural shapes. A metal book end might be in the shape and form of an angle, yet it would not qualify as a structural shape. The definitions and numerous citations reviewed hereinbefore set forth characteristics of structural shapes, but these are not possessed by the merchandise at bar as represented by exhibits 1, 2, 3, 4, and 8. Admittedly, they are shelf brackets; they support no structure. They do not lend strength, even incidental to the structure, nor were they designed to do so.
>
> Examination of the physical articles (exhibits 1 through 4, and exhibit 8) demonstrates this quite clearly. Their physical appearance indicates processing beyond angles. The shelf brackets involved herein are not *ejusdem generis* with the articles designated by name in paragraph 312. They are articles of commerce commonly recognized and known as shelf brackets.
>
> * * * The purpose and function of the shelf brackets before us is to support a shelf and not a structure, either heavy or light, large or small.

The decision in C.D. 3399, *supra*, then made the following observation:

> Plaintiff claims that these shelf brackets were designed and are used to support a maximum load with a minimum amount of material, combining the greatest strength with the least weight, and that, therefore, they are "structural shapes" as that term is commonly understood. We are not in accord with that conclusion. As stated in the previous case, the purpose and function of these shelf brackets is to support a shelf and not a structure. Thus, whether or not they support a maximum load with a minimum amount of material, they are not *structural* shapes [emphasis] quoted]. *James Loudon & Co., Inc., et al.* v. *United States*, 47 CCPA 73, C.A.D. 731; *United States* v. *Humble Oil & Refining Co., Leslie B. Canion, et al.*, 46 CCPA 138, C.A.D. 717; *Inter Continental Equipment Co., Rohner Gehrig & Co., Inc.*, v. *United*

States; 48 CCPA 63, C.A.D. 765. In the *Humble Oil* case, the court pointed out (p. 140):

> * * * we are unable to agree with the apparent holding that every element which is a part of a structure is a "structural shape" if it is subjected therein to forces and loads such as tension, compression and the like. * * *

It is evident that the shelf brackets in no way support a structure. The fact that they are attached to a structure does not make them a structural unit even if they are able to bear a maximum load with a minimum of material. *United States* v. *Humble Oil, supra.*

For the reasons stated, the protest is overruled. Judgment will be entered accordingly.

(C.D. 4460)

CRIZZLY CORPORATION *v.* UNITED STATES

Tractor tire chains—Chain links

CHAIN LINKS

Ringlike articles known as "shoes" which (1) constitute the center portion of the tractor tire chains in issue; (2) have the main function of serving as traction-producing devices rather than of linking anything; and (3) are kept in place by the balance of the tire-chain assembly *held* not to constitute chain "links" within the common meaning of the term "links" as used in the superior heading to item 652.30.

Court Nos. 71-10-01252 and 71-12-02023
Port of Chicago

[Judgment for plaintiff.]

(Decided June 28, 1973)

Barnes, Richardson & Colburn (*Peter J. Fitch* of counsel) for the plaintiff.
Harlington Wood, Jr., Assistant Attorney General (*Patrick D. Gill*, trial attorney), for the defendant.

MALETZ, Judge: The problem in these actions is to determine the proper dutiable status of certain tractor tire chains that were manufactured in Norway and entered at the port of Chicago, Illinois, in 1969 and 1970. The importations were classified by the government under item 652.35 of the tariff schedules, as modified, T.D. 68-9, and assessed with duty at the rate of 15 percent or 13 percent ad valorem depending upon the date of entry. Plaintiff challenges these assess-

ments and claims that the importations are properly dutiable under item 652.30, as modified, T.D. 68–9, at the rate of 0.4 cent per pound or 0.3 cent per pound depending upon the date of entry.

The tariff provisions involved are as follows:

	Chain and chains, and parts thereof, all the foregoing of base metal not coated or plated with precious metal:	
	Of iron or steel:	
	* * * * * * *	
	Chain or chains (except the foregoing) the links of which are of stock essentially round in cross section, and parts thereof:	
	* * * * * * *	
652.30	⅜ inch or more but under ¾ inch in diameter	[1]
	* * * * * * *	
652.35	Other, including parts	[2]

At the outset, it is to be observed that the parties have agreed in the pleadings that the imports are chains, the links of which are essentially round in cross section; that all the links in the chains (not including certain ringlike cleated objects sometimes hereafter referred to as "shoes") are of stock which is ⅜ inch or more but under ¾ inch in diameter; and that the tire chains in question are of iron or steel.

In this setting, the principal issue in the case is whether the "shoes" which constitute the center portion of the chains in question and are of stock that measures in excess of ¾ inch in diameter constitute "links" within the meaning of the superior heading to item 652.30 quoted above. If, as argued by the defendant, the "shoes" constitute links, then because their diameter is of stock that exceeds ¾ of an inch, the chains manifestly would not come within the purview of item 652.30 but rather would have been correctly classified by the government under item 652.35. On the other hand, if the "shoes" do not constitute links, as plaintiff insists, then the imported chains would be properly classifiable under item 652.30.

Considering the imported article in greater detail, examination of a "shoe" [3] shows that it is in the form of a ring which measures approximately 7¼ inches across. Welded to its circumference are four cleats (usually referred to as "lugs") that are equidistant from each other, with each lug measuring about 1½ inches in length and 1½ inches in width. Also welded to the circumference of the "shoe", adjacent to each

[1] Under item 652.30, the rate of duty for articles entered in 1969 is 0.4 cent per pound; for articles entered in 1970, the rate of duty is 0.3 cent per pound.

[2] Under item 652.35, the rate of duty for articles entered in 1969 is 15 percent ad valorem; for articles entered in 1970, the rate of duty is 13 percent ad valorem.

[3] Each tractor tire chain contains 14 "shoes".

lug, are four small ringlike loops. Interlocked to these loops are a series of various conventional chain links and accessories, such as small rings, screw pin shackles and hooks. The chains are connected in such a manner as to form cross chains and side chains which in turn can be mounted on the tractor tires. The "shoes", it is to be added, are not connected to each other but are connected to the links of the chain.

According to the testimony of the witnesses,[4] the imported chains are used primarily by the logging industry as traction-producing devices on the tires of a type of tractor called a skidder—which is a four-wheel drive machine that skids or drags logs out of the woods. The center portion of the chains, i.e., the "shoes"—fitted as they are with cleats which dig into the ground—are the primary traction-producing portion of the tire chains, and the function of the balance of the assemblies comprising the tire chains in issue is to hold the "shoes" in place on the tractor tire. In addition, the chain portions provide a very small incidental amount of tractive power.

The "shoes" have not been referred to as links by anyone to whom the witnesses have spoken. Rather, such "shoes" are referred to as "shoes", "ring cleats", "rings" or "grousers". Thus, corresponding portions of similar chains produced by a Maine chain manufacturer are referred to by that company as "rings". Further, tire chains that incorporate "shoes", "cleats" or similar traction devices are referred to, known as, and advertised as "ring type" chains, while tire chains utilizing only link-type cross chains for traction are referred to, known as, and advertised as "link type" chains. This distinction between "ring type" tire chains and "link type" tire chains extends to the public as well as the trade.

The welded chain on the imported article is made by an automated process on chain-making machinery which forms the links from wire. interlocks the links, and welds them shut. On the other hand, the "rings" or "shoes" on the tire chains in question are not made on chain-making machinery but rather are made by rolling round bar stock of steel onto a mandril, forming a spiral which is then sawed. The resulting pieces of steel are then welded together to form completed circles of steel. The lugs and loops are then welded onto these rings, thus completing the "shoes".

We consider now the meaning to be accorded to the term "links". Since no question of commercial designation is involved here, the common meaning of the term will control in the absence of a demonstrated contrary legislative intent. *Marshall Field & Co.* v. *United*

[4] Two witnesses testified for the plaintiff—one of whom was the president of the plaintiff-company, while the other headed a domestic manufacturing firm that produced various types of chains, including chains that are similar to those in issue here. Defendant did not call any witnesses.

States, 45 CCPA 72, C.A.D. 676 (1958); *United States* v. *Mercantil Distribuidora, et al.*, 43 CCPA 111, C.A.D. 617 (1956). The common meaning of a tariff term is, of course, a question of law for the court and in determining that meaning, the court may receive testimony of witnesses, which is advisory only, and consult lexicons and other relevant authorities. *E.g.*, *Trans-Atlantic Company* v. *United States*, 60 CCPA—, C.A.D. 1088 (1973); *United States* v. *National Carloading Corp., et al.*, 48 CCPA 70, C.A.D. 767 (1961); *United States* v. *O. Brager-Larsen*, 36 CCPA 1, C.A.D. 388 (1948).

The term "link" has been defined as follows:

> *Britannica World Language Dictionary* (1963 ed.):
>
> link—n. 1. One of the loops of which a chain is made; hence, something which connects separate things; a tie. * * * 3. A single constituent part of a continuous series. * * *
>
> *Webster's New International Dictionary, Second Edition* (Unabridged, 1960):
>
> link—n. * * * 1. A single ring or division of a chain * * *.
>
> * * * * * * *
>
> 3. Anything analogous to a link of a chain in form, function, or arrangement * * *.
> 4. Something which binds together or connects things.
>
> * * * * * * *
>
> *Funk and Wagnalls New Standard Dictionary of the English Language* (1941 ed.):
>
> link—1. One of the rings or loops of which a chain is made; anything doubled or closed together like such a link; hence, something which connects separate things; a bind; a tie. * * *

Helpful also is the following statement in *The Encyclopedia Americana* (1953 ed.), Vol. 6, p. 246, which discusses chains and chainmaking as follows:

> A chain consists of a series of similar links which either interlock or are joined to each other so that they form a continuous flexible metal line. * * *

Against this background, we think it clear that the "shoes" in question neither resemble nor are analogous to chain links in form and are not joined in the same manner as links. Further, the "shoes" do not function as links; instead, as observed previously, their main function is to serve as traction-producing devices. In short, the primary purpose of the "shoes" is not to link anything, and they do not connect anything except incidentally, whereas, the principal function of a link is to form a chain rather than to act as a traction-producing device. On this latter aspect, it is to be noted that both witnesses testified without contradiction that the function of the rest of the tire-chain assembly

was only to hold the "shoes" to the tractor tire and keep the "shoes" in place. Thus, contrary to connecting separate things or binding something together, it is the "shoes" which are the things that are bound and connected by the tire-chain assembly.

Moreover, the "shoes" in question are not arranged in a manner analogous to links of chain. Nor is each "shoe" one of a series of interlocked units, each of which is similar to the one adjoining it. While it is true that the "shoes" are attached to the cross chains, they are not interlinked in the same manner as chain links; they are not doubled over or closed together like such a link; and they are not interlinked with each other to form a chain of "shoes".

Not without significance, also, is the testimony of the two witnesses that in their experience in dealing in the tire chains in question, in selling such tire chains, and in exhibiting such tire chains, the persons with whom they have discussed the chains have never referred to the "shoes" of these chains as "links" of the tire chains. Thus, the president of the plaintiff-company testified that he has sold and exhibited the tire chains in question "throughout the continental United States, practically from coast to coast"; that he has discussed the type of chains in question with "conservatively thousands [of people] since 1969", including members of the general public as well as the industry; and that the "shoes" have never been referred to by anybody as a link. The second witness who has sold and exhibited the chains in question in the New England area, and who has been in the chain business for 25 years, corroborated the lack of designation of the term "link" in connection with the "shoes" of the tire chains in issue by those to whom he has spoken. The evidence before the court, therefore, is that, based upon those members of the industry and of the public whose views are known to the witnesses, the "shoes" of the tire chains in issue are not known as, or referred to, as "links". The "shoes" may have been referred to in various ways by those persons but in no instance were the "shoes" referred to as "links". There is no testimony to the contrary before the court, and the evidence stands unrebutted.

Relevant, too, is that the witnesses' uncontradicted testimony and the exhibits in the record demonstrate that tire chains utilizing "shoes", "rings" or similar traction-producing devices are referred to and advertised as "ring type chains", while tire chains utilizing only link-type cross chains for traction are referred to and advertised as "link type chains". These factors provide further indication that the chain industry, the logging industry, those who buy and use the tire chains in question and members of the public differentiate between a "shoe" or other traction device and a "link", and that the terms are not synonymous.

To sum up, considering (i) the lexicographic definitions of the term "link", (ii) the uncontroverted testimony that members of the chain industry, the logging industry and the general public do not refer to the "shoes" as "links", and (iii) the fact that tire chains which utilize "shoes", "rings" or similar traction-producing devices are referred to and advertised as "ring type chains", while those tire chains which utilize only link-type cross chains for traction are referred to and advertised as "link-type chains", it must be concluded that the "shoes" of the tire chains in question are not "links" of those tire chains within the common meaning of the term "links" as that term is used in the superior heading to item 652.30, the claimed provision.

Misplaced is defendant's reliance on *Border Brokerage Co., Inc.* v. *United States*, 64 Cust. Ct. 458, C.D. 4020 (1970), and *C. J. Tower & Sons* v. *United States*, 48 Treas. Dec. 220, T.D. 41118 (1925). In *Border Brokerage*, articles described as cold shuts and lap links, which were found by the court to serve as chain links for all practical purposes, were held to be classifiable under item 652.33 as parts of chains. The cold shuts in that case were used for connecting chains or for attaching a hook to a piece of chain, while the lap links were used to join the two ends of a chain or to repair a broken chain by connecting the links together. As Judge Newman, speaking for the court in *Border Brokerage*, noted (id. at 461):

> Even when the cold shut is used at the end of a chain to join a hook, it is apparent from exhibit 3 that the cold shut becomes virtually a link in the chain. If a chain were manufactured with a hook attached to the end link, plainly it would be incongruous to consider the end link as anything other than a chain link or part of the chain. Similarly, we see no reason to view any differently a cold shut used to attach a hook to a chain.

The short of the matter is that the articles in *Border Brokerage* were fastening devices used to connect pieces of chain or to connect the ends of a chain. Such articles are, of course, analogous to links of chain in form, function and arrangement. Here, on the other hand, the primary function of the "shoes" is to serve as a traction-producing device. They do not connect anything except incidentally; they are not interlinked in the same manner as chain links; and instead of connecting separate things or binding something together, as was the situation in *Border Brokerage*, it is the "shoes" which are the things that are bound and connected by the tire-chain assembly.

Defendant's reference to *C. J. Tower & Sons* v. *United States*, *supra*, is similarly without merit. *C. J. Tower* is cited by defendant as standing for the proposition that "chain can be composed of links of varying sizes and still [be] classified and considered to be chain". Also, de-

fendant cites language from *C. J. Tower* which states that "[i]t is a matter of common knowledge that virtually all chains devoted to specific uses have some special link, ring, hook, swivel, or similar device to permit fastening the chain to the object." 48 Treas. Dec. at 221. However, we fail to see how the presence of a special or added device for fastening the chain to an object bears on the present case. For here we are not concerned with mere fastening devices. Rather, we are concerned with the fact that chains are made up of chain links and other parts which are not links. And the single conclusion reached here is that the "shoes" of the chains in question are among the other parts which are not links.

For the foregoing reasons, plaintiff's claim that the imported merchandise is properly assessable under item 652.30 is sustained. Judgment will be entered accordingly.

Decisions of the United States Customs Court

Review Decision

(A.R.D. 316)

AMPEX PROFESSIONAL PRODUCTS CO. *v.* UNITED STATES

Electrical equipment

Certain television camera channels and parts were appraised at export value as defined in section 402(b), Tariff Act of 1930, as amended by the Customs Simplification Act of 1956, 70 Stat. 943, at invoiced unit price plus 11.11 percent, packed, based upon sales to the least favored purchaser. Appellant contends the value under the same basis of appraisement is the invoiced unit value plus packing.

Where the parties agree that the importer and the purchaser utilized by customs in making the appraisement are selected purchasers, it is incumbent upon appellant to overcome the presumption of correctness attaching to the action taken by customs and establish that the price contended fairly reflects the market value.

The evidence is insufficient to establish the merchandise used as a basis for appraisement is "similar" and not "such".

After-service costs, modifications and advertising, without a further breakdown, are insufficient to overcome the presumption of correctness attaching to the appraised value. *Ellis Silver Co., Inc.* v. *United States*, 67 Cust. Ct. 564, A.R.D. 293 (1971), *aff'd*, 60 CCPA —, C.A.D. 1100 (1973).

APPLICATION FOR REVIEW OF REAPPRAISEMENT DECISION 11765

Reappraisement R65/20390

Entered at San Francisco, Calif.
Entry No. 3066.

Second Division, Appellate Term

[Affirmed.]

(Decided June 26, 1973)

Glad, Tuttle & White (*George R. Tuttle, Jr.* and *John McDougall* of counsel) for the appellant.

Harlington Wood, Jr., Assistant Attorney General (*Gilbert Lee Sandler*, trial attorney), for the appellee.

Before RAO, FORD, and NEWMAN, Judges

FORD, Judge: This is an application for review by the plaintiff below of the decision and judgment of a single judge sitting in reap-

praisement (*Ampex Professional Products Co.* v. *United States*, 68 Cust. Ct. 249, R.D. 11765 (1972)) wherein the appraised values of "6 Marconi Mark IV Television Camera Channels" and parts were sustained.

The merchandise, exported from England, was appraised on the basis of export value as defined in section 402(b), Tariff Act of 1930, as amended by the Customs Simplification Act of 1956, 70 Stat. 943, at the invoiced unit price, plus 11.11 percent, packed. Appellant contends the proper dutiable value as defined in section 402(b) is the invoiced unit price plus packing. The parties agree the involved merchandise does not appear on the Final List, T.D. 54521, and the proper basis of appraisement is export value as set forth in section 402(b), *supra*.

The pertinent statutory provisions as amended by the Customs Simplification Act of 1956, *supra*, are as follows:

> (b) EXPORT VALUE.—For the purposes of this section, the export value of imported merchandise shall be the price, at the time of exportation to the United States of the merchandise undergoing appraisement, at which such or similar merchandise is freely sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation, in the usual wholesale quantities and in the ordinary course of trade, for exportation to the United States, plus, when not included in such price, the cost of all containers and coverings of whatever nature and all other expenses incidental to placing the merchandise in condition, packed ready for shipment to the United States.
>
> (f) DEFINITIONS.—For the purposes of this section—
>
> (1) The term "freely sold or, in the absence of sales, offered for sale" means sold or, in the absence of sales, offered—
>
> (A) to all purchasers at wholesale, or
>
> (B) in the ordinary course of trade to one or more selected purchasers at wholesale at a price which fairly reflects the market value of the merchandise,
>
> without restrictions as to the disposition or use of the merchandise by the purchaser, except restrictions as to such disposition or use which (i) are imposed or required by law, (ii) limit the price at which or the territory in which the merchandise may be resold, or (iii) do not substantially affect the value of the merchandise to usual purchasers at wholesale.
>
> (2) The term "ordinary course of trade" means the conditions and practices which, for a reasonable time prior to the exportation of the merchandise undergoing appraisement, have been normal in the trade under consideration with respect to merchandise of the same class or kind as the merchandise undergoing appraisement.

(3) The term "purchasers at wholesale" means purchasers who buy in the usual wholesale quantities for industrial use or for resale otherwise than at retail; or, if there are no such purchasers, then all other purchasers for resale who buy in the usual wholesale quantities; or, if there are no purchasers in either of the foregoing categories, then all other purchasers who buy in the usual wholesale quantities.

(4) The term "such or similar merchandise" means merchandise in the first of the following categories in respect of which export value, United States value, or constructed value, as the case may be, can be satisfactorily determined:

(A) The merchandise undergoing appraisement and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, the merchandise undergoing appraisement.

(B) Merchandise which is identical in physical characteristics with, and was produced by another person in the same country as, the merchandise undergoing appraisement.

(C) Merchandise (i) produced in the same country and by the same person as the merchandise undergoing appraisement, (ii) like the merchandise undergoing appraisement in component material or materials and in the purposes for which used, and (iii) approximately equal in commercial value to the merchandise undergoing appraisement.

(D) Merchandise which satisfies all the requirements of subdivision (C) except that it was produced by another person.

The record consists of the testimony of three witnesses called on behalf of appellant and one exhibit received in behalf of appellant. In addition, the special customs invoice and accompanying papers were received in evidence without being marked.

The testimony of James Scott, the import specialist who made the advisory appraisement herein, establishes the addition of 11.11 percent was based upon the sales price to the Columbia Broadcasting System pursuant to a ruling of the Bureau of Customs, received in evidence as plaintiff's exhibit 1.

According to Stanley Leeson, chief of sales in Europe and the Americas for Marconi during the period of 1963–1964, the sales of television equipment by his company were limited to Ampex Professional Products Co. (hereinafter referred to as Ampex) and the Columbia Broadcasting System Television Network in New York (hereinafter referred to as CBS). Ampex was Marconi's representative in this country and sold the equipment to various television stations in the United States. CBS had a prior marketing agreement with Marconi and purchased television equipment for its own use in producing network television programs in New York and Hollywood.

Mr. Leeson testified that CBS required certain modifications of the Mark IV camera equipment such as a different color paint, their own design of focus handle and different connectors which the testimony indicates would amount to 1 percent of the value of the equipment. In addition, a different yoke assembly was supplied. The yoke assembly is "a portion of the camera that contains the pick-up tube that sees the scene." The yoke was required, according to the witness, because the studio in New York is subjected to extremely high magnetic fields and the yoke ordinarly supplied would not permit satisfactory operation in such environment. The price to CBS was higher because Marconi was responsible for product maintenance, up-dating of information and modification whereas Ampex assumed responsibility for after-sales service and parts. In addition, Ampex promoted the Marconi equipment and advertised it in magazines.

Mr. Donald Kleffman, called on behalf of appellant, was video product manager of Ampex at the time of importation of the involved merchandise and was familiar with the Mark IV camera. Ampex sold the cameras to end users and provided after-sales service in addition to advertising and sales promotion.

Appellant concedes and appellee does not contest the finding by the trial court that sales in the home market or for export to Europe should not be considered in determining whether the price fairly reflects the market value since different television line standards are used in the various countries. This requires changes in the circuitry and consequently results in a dissimilar article. *C. J. Tower & Sons* v. *United States*, 50 CCPA 76, C.A.D. 824 (1963). This matter was not assigned as error and is merely set forth for the sake of clarity in disposing of the question of whether sufficient proof has been adduced with respect to the requirement that the price fairly reflects the market value.

The trial court found the appraisement, invoice unit prices plus 11.11 percent, to be separable. A party attacking such appraisement may rely upon the presumption of correctness attaching to the invoiced unit prices exclusive of the contested addition. *United States* v. *Bud Berman Sportswear, Inc.*, 55 CCPA 28, C.A.D. 929 (1967). The burden of establishing that such or similar merchandise was freely sold or offered for sale in the ordinary course of trade in accordance with the statutory definition of export value remains with the party contesting the appraisement. *B & W Wholesale Co., Inc.* v. *United States*, 58 CCPA 92, C.A.D. 1010 (1971).

Inasmuch as the parties agree that both Ampex and CBS are selected purchasers within the definition set forth in section 402(f)(1)(B), it is incumbent upon appellant to establish, in addition to the foregoing, that the price fairly reflects the market value. Ordi-

narily sales in the home market or to third countries may be used to establish the price as fairly reflecting the market value. However, as indicated, *supra*, such sales are not acceptable in this instance as the camera channels are by special design and construction incapable of being used in the United States and are not commercially interchangeable. *United States* v. *Ford Motor Company*, 46 Cust. Ct. 735, A.R.D. 124 (1961). In addition to sales in the home market or to a third country, cost of production figures may be used to establish a price which fairly reflects the merchandise under consideration. *United States* v. *Acme Steel Company*, 51 CCPA 81, C.A.D. 841 (1964). The record is barren of any evidence of cost of production.

Sales to other importers in the United States may be utilized as in the case of *J. L. Wood* v. *United States*, 68 Cust. Ct. 259, R.D. 11766 (1972) (application for review pending). The customs official followed this procedure in this case since the appraisement was made on the basis of sales to the other United States purchaser, CBS.

Appellant's contention is that the modification of the focus handle, connectors and particularly the yoke made the CBS article "similar" to the one imported by Ampex. This is based upon the contention that the yoke supplied to Ampex would not function in a highly magnetic field area as is found in New York. If we were to hold that the CBS camera was "similar" and not "such", there is insufficient evidence to establish that the Ampex camera price fairly reflects the market value. Though the testimony does allude to certain after-sales services and spare parts provided to CBS and not to Ampex, evidence is lacking to establish such costs. In the absence of such evidence or proof of cost of production, there is a failure of proof in establishing the contended value. Even if we were to assume that the 11.11 percent differential was due to these after-service costs, and it is not since we are aware of the modification of the focus handle, connectors and yoke, such evidence without a further breakdown is insufficient to overcome the presumption of correctness attaching to the appraised value. *Ellis Silver Co., Inc.* v. *United States*, 67 Cust. Ct. 564, A.R.D. 293 (1971), *aff'd*, 60 CCPA —, C.A.D. 1100 (1973).

Additionally appellant contends CBS is not an industrial user and is within the meaning of section 402(f)(1)(B), *supra*, and section 402(f)(3), *supra*. The opinion of Senior Judge Wilson considered this matter and made the following comment:

> * * * The business of producing network programs for broadcasting on a network affiliate is a known, recognized, albeit occasionally controversial practice which constitutes a major economic factor in the billion dollar television industry. I am unable to perceive any significant difference, in assaying "industrial use" under the valuation statute, between the use of articles such as the steel

strapping involved in *United States* v. *Acme Steel Company*, *supra*, and the articles at bar.

Furthermore, assiduous research into the legislative history of the Customs Simplification Act of 1956 fails to disclose any intent to give the term "industrial use" the narrow meaning ascribed to it by plaintiff. In the absence of such a showing, the appraising officer's presumptively correct finding that CBS purchased the cameras for "industrial use" has not been overcome.

For all of the reasons heretofore stated, we find the 11.11 percent addition here in question was properly included in the export value as appraised.

We adopt and incorporate by reference the facts found and the conclusions of the trial judge. The decision and judgment of the trial judge is hereby affirmed and judgment will be entered accordingly.

Decisions of the United States Customs Court

Custom Rules Decision

(C.R.D. 73–14)

W. T. GRANT CO. *v.* UNITED STATES

On Plaintiff's Motion for Summary Judgment

Port of New York, Court No. 61/18316, etc.
on wearing apparel

[Motion denied.]

(Dated June 29, 1973)

Sharretts, Paley, Carter & Blauvelt (*Richard L. Furman* of counsel) for the plaintiff.

Harlington Wood, Jr., Assistant Attorney General (*Robert B. Silverman*, trial attorney), for the defendant.

MALETZ, Judge: These consolidated actions involve the dutiable status of articles invoiced as cabana or other sets of shirts and pants or shorts. The articles which were imported from Japan and Hong Kong from 1959 to 1963 were assessed with duty at 25 percent ad valorem under paragraph 919 of the Tariff Act of 1930, as modified, as shirts of cotton, not knit or crocheted.

Plaintiff claims that the importations are similar in all material respects to the shirt and longie sets in *The Nissho American Corp.* v. *United States*, 64 Cust. Ct. 378, C.D. 4005 (1970), which sets were held to be entireties dutiable at 20 percent ad valorem as clothing and wearing apparel, wholly or in chief value of cotton, not specially provided for, under paragraph 919 of the Tariff Act of 1930, as modified. Plaintiff further claims that *Nissho* is *stare decisis* of the issue here, and that the sets presently in question are likewise entireties dutiable at 20 percent under the same provision of paragraph 919.

Against this background, plaintiff has moved for summary judgment pursuant to rule 8.2, contending that there is no genuine issue as to any material fact and that it is therefore entitled to judgment as a matter of law. Defendant opposes on the ground that a genuine

factual issue remains for trial, specifically the identity of the merchandise in question.

The triable issues to be resolved are plaintiff's claims that the merchandise in issue consists of entireties and that the imported merchandise is similar in all material respects to the merchandise which was the subject of *Nissho*. The identification and description of the imported merchandise is thus crucial to plaintiff's claims. However, no samples or supportive company documents were submitted. The only evidence submitted by plaintiff to support its claims was an affidavit of D. Spencer who from October 1962 through June 1965 was plaintiff-importer's buyer of little boys' clothes, including little boys' shirt and slack sets, cabana sets, and shirt and short sets.

In this context, it is important to note that the issues raised in this action are virtually identical to the isues raised in *W. T. Grant Co.* v. *United States*, 70 Cust. —, C.R.D. 73–10 Ct. (1973), in which plaintiff's motion for summary judgment was denied.[1] Furthermore, in the present action the affidavit of D. Spencer is identical to an affidavit of the same D. Spencer which plaintiff submitted to support its motion for summary judgment in the earlier *Grant* case. Although the style numbers here in issue are different from the style numbers which were the subject of the first *Grant* case, the merchandise is of the same genus, is claimed by the plaintiff to be similar in all material respects to *Nissho* and was imported at about the same time.

In the first *Grant* case, the court noted serious doubts as to the competency of Spencer to testify respecting the importations in that case. Many of the reasons employed by the court in reaching that determination are equally applicable here. For one thing, Spencer's affidavit shows a familiarity with "little boys' clothes" that did not begin until October 1962. Significant in this connection is the fact that the merchandise involved here—which comprised 17 entries—was imported from November 1959 through August 1963, with 9 of the 17 entries imported prior to October 1962. Also detracting from Spencer's ability to identify the merchandise is the fact that he did not see any of the imported articles on display in the Grant stores until the fall of 1964—well over a year after the entry of the last shipment of the merchandise in question.

In short, it is clear on the basis of the present record that plaintiff has failed to show that the merchandise in the present case is similar in all material respects to the merchandise involved in *Nissho*. The motion for summary judgment is therefore denied.

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[1] Plaintiff's motion for summary judgment in the first *Grant* case alleged that the merchandise there involved was similar in all material respects to the merchandise which was the subject of *Miniature Fashions, Inc.* v. *United States*, 54 CCPA 11, C.A.D. 894 (1966), and *The Nissho American Corp.* v. *United States*, *supra*.

Decisions of the United States Customs Court

Abstracts

Abstracted Protest Decisions

DEPARTMENT OF THE TREASURY, *July 2, 1973.*

The following abstracts of decisions of the United States Customs Court at New York are published for the information and guidance of officers of the customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to customs officials in easily locating cases and tracing important facts.

VERNON D. ACREE,
Commissioner of Customs.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P73/649	Ford, J. June 27, 1973	Import Associates of America, Inc.	64/853, etc.	Par. 353 15% (items marked "B") Par. 1531 or 1531/1559(a) 20% (items marked "C")	Par. 353 12½% (items marked "B" and "C")	Midland International Corp. v. U.S. (C.D. 3217); North American Foreign Trading Corp. v. U.S. (C.D. 3968) (items marked "B") Lafayette Radio Electronics Corp. v. U.S. (C.A.D. 977) (items marked "C")	San Francisco Earphones, not subminiature, having an essential electrical feature (items marked "B") Cases imported with radios (entireties) (items marked "C")

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P73/650	Ford, J. June 27, 1973	Lipkin Import Company	63/16734, etc.	Par. 353 15% (items marked "B") Par. 1531 or 1531/1559(a) 20% (items marked "C")	Par. 353 13¾%, 12½% and 11½% (items marked "B") Par. 353 12½% (items marked "C")	Midi and International Corp. v. U.S. (C.D. 3217); North American Foreign Trading Corp. v. U.S. (C.D.3968)(items marked "B") Lafayette Radio Electronics Corp. v. U.S. (C.A.D. 977) (items marked "C")	San Francisco Earphones, not subminiature, having an essential electrical feature (items marked "B") Cases imported with radios (entireties) (items marked "C")
P73/651	Ford, J. June 27, 1973	New York Merchandise Co., Inc.	62/696, etc.	Par. 397 19% or 17%	Par. 339 12.5% or 11%	Ignaz Strauss & Company, Inc. v. U.S. (C.A.D. 923 and C.D. 3627)	San Diego Brass candlesticks, candelabra, etc.
P73/652	Richardson, J. June 27, 1973	United China & Glass Co.	64/13962, etc.	Par. 212 60% or 45% and 10¢ per doz. pcs.	Par. 212 45%	W. Kay Company, Inc. v. U.S. (C.D. 2484) New York Merchandise Co., Inc. v. U.S. (C.D. 3463)	San Diego Decorated porcelain cups and saucers
P73/653	Landis, J. June 27, 1973	Frank P. Dow Co., Inc., of Los Angeles, a/c United China & Glass Co.	222761-K, etc.	Par. 212 70%, 60% or 45% and 10¢ per doz. pcs.	Par. 212 50¢ per doz. pcs. but not less than 45% nor more than 70%; or 45%	U.S. v. The Baltimore & Ohio R.R.Co., a/c United China & Glass Company (C.A.D. 719) W. Kay Company, Inc. v. U.S. (C.D. 2484) New York Merchandise Co., Inc. v. U.S. (C.D. 3463)	Los Angeles Decorated porcelain cups and saucers
P73/654	Landis, J. June 27, 1973	National Silver Company	70/35851	Item 533.75 54% plus 9¢ per doz. pcs.	Item 533.71 40%	U.S. v. National Silver Co. (C.A.D. 1040)	Boston Porcelain mugs

P73/655	Landis, J. June 27, 1973	United China & Glass Co.	64/7608, etc.	Par. 212 60% or 45% and 10¢ per doz. pcs.	Par. 212 45%	U.S. v. The Baltimore & Ohio RR.. Co., a/c United China & Glass Company (C.A.D. 719) W. Kay Company, Inc. v. U.S. (C.D. 2434) New York Merchandise Co., Inc. v. U.S. (C.D. 3463)	New Orleans Decorated porcelain cups and saucers
P73/656	Landis, J. June 27, 1973	United China & Glass Co.	68/5613, etc.	Item 533.73 45% and 10¢ per doz. pcs.	Item 534.94 45%	New York Merchandise Co., Inc. v. U.S. (C.D. 3463)	New Orleans Decorated porcelain cups and saucers
P73/657	Watson, J. June 27, 1973	Deldan Design, Inc.	66/76921(C)	Item 748.20 28%	Item 774.60 17%	Arbee Corporation et al. v. U.S. (C.D. 3278) Zunold Trading Corporation et al. v. U.S. (C.D. 3279)	New York Artificial flowers, etc.
P73/658	Watson, J. June 27, 1973	S. S. Kresge Co.	68/15609, etc.	Item 748.20 28%	Item 772.15 17%	Agreed statement of facts	New York Floral curtain ring sets, plastics, chiefly used in the household
P73/659	Watson, J. June 27, 1973	Zunold Trading Corp.	66/15058, etc.	Item 748.20 28%	Item 774.60 17%	Armbee Corporation et al. v. U.S. (C.D. 3278) Zunold Trading Corporation et al. v. U.S. (C.D. 3279)	New York Artificial flowers, etc.
P73/660	Maletz, J. June 27, 1973	Kami Enterprises, Inc., et al.	72-5-01195, etc.	Item 646.92 12% or 11%	Item 692.27 5.5% or 5%	Kami Enterprises, Inc. v. U.S. (C.D. 4352)	Los Angeles Parts of motor vehicles (locking lug nuts)

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P73/661	Maletz, J. June 27, 1973	F. W. Myers & Co., Inc.	65/9681	Item 774.60 17%	Item 771.15 4%	Judgment on the pleadings	Champlain-Rouses Point (Ogdensburg) Cellulose film—merchandise which is of plastics; not of rubber, nor of cellulose acetate; and is waste or scrap, fit only for remanufacture
P73/662	Ford, J. June 28, 1973	American Express Company et al.	66/45284, etc.	Par. 1531 or 1531/1559(a) 20%	Par. 353 12½% Radios and cases appraised as separate entities; should have been appraised as single unit; appraisement and liquidation void; protests dismissed as premature; entries returned to customs officer for appraisement and liquidation consistent with decision	Judgment on the pleadings Lafayette Radio Electronics Corp. v. U.S. (C.A.D. 977)	Chicago Radio cases imported with radios (entireties)

P73/663	Ford, J. June 28, 1973	C.M. Import & Export Corp. et al.	64/18917	Par. 1531 or 1531/1559(a) 20%	Radios and cases appraised as separate entities; should have been appraised as single unit and assessed at the rate applicable to the radios; appraisement and liquidation void; protests dismissed as premature; entries returned to customs officer for appraisement and liquidation consistent with decision	Judgment on the pleadings Lafayette Radio Electronics Corp. v. U.S. (C.A.D. 977)	San Francisco Radio cases imported with radios (entireties)

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P73/664	Ford, J. June 28, 1973	Imperial International Corp. et al.	66/63004, etc.	Par. 1531 or 1531/1559(a) 20%	Par. 353 12½% Radios and cases appraised as separate entities; should have been appraised as single unit; appraisement and liquidation void; protests dismissed as premature; entries returned to customs officer for appraisement and liquidation consistent with decision	Judgment on the pleadings Lafayette Radio Electronics Corp. v. U.S. (C.A.D. 977)	New York Radio cases imported with radios (entireties)
P73/665	Ford, J. June 28, 1973	Import Assoc. of America, Inc., et al.	66/73540, etc.	Par. 1531 or 1531/1559(a) 20%	Par. 353 12½% Radios and cases appraised as separate entities; should have been appraised as	Judgment on the pleadings Lafayette Radio Electronics Corp. v. U.S. (C.A.D. 977)	Los Angeles Radio cases imported with radios (entireties)

					single unit; appraisement and liquidation void; protests dismissed as premature; entries returned to customs officer for appraisement and liquidation consistent with decision		
P73/666	Ford, J. June 28, 1973	Marubeni-Iida (America), Inc., et al.	63/22149, etc.	Par. 1531 or 1531/1559(a) 20%	Par. 353 12½% Radios and cases appraised as separate entities; should have been appraised as single unit; appraisement and liquidation void; protests dismissed as premature; entries returned to customs officer for appraisement and liquidation consistent with decision	Judgment on the pleadings Lafayette Radio Electronics Corp. v. U.S. (C.A.D. 977)	Los Angeles Radio cases imported with radios (entireties)

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P73/667	Richardson, J. June 28, 1973	North American Foreign Trading Corp.	70/23209	Item 720.14 20% plus 67¢	Item 720.14 With an allowance for a portion of the value of the clock movements (specifically $4.17 per movement) under item 807.00 as U.S. products returned Items 720.14 and 807.00 43.04% on balance of value of clock movements (specifically 60¢ per movement)	Agreed statement of facts	New York Clock movements contained in clock radios
P73/668	Landis, J. June 28, 1973	Westwood Import Co., Inc.	68/52434, etc.	Item 533.73 40% and 9¢ per doz. pcs.	Item 534.94 40%	U.S. v. The Baltimore & Ohio R.R. Co., a/c United China & Glass Company (C.A.D. 719) W. Kay Company, Inc. v. U.S. (C.D. 2484) New York Merchandise Co., Inc. v. U.S. (C.D. 3453)	San Diego Decorated porcelain cups and saucers

P73/669	Watson, J. June 28, 1973	Rice Bayersdorfer Co. et al.	68/44373, etc.	Item 748.20 28% or 26.5%	Item 774.60 17% or 15%	Armbee Corporation et al. v. U.S. (C.D. 3278) Zunold Trading Corporation et al. v. U.S. (C.D. 3279)	Philadelphia Artificial flowers, etc.
P73/670	Watson, J. June 28, 1973	Seedman International Corp.	67/25872, etc.	Item 732.36 30%, 24% and 21%	Item 642.20 19%, 15% or 13%	Oxford International Corp. v. U.S. (C.D. 4326)	New York Cables, bicycle parts, caliper brake cables with or without adaptors, brakes and parts, single strand cable, front and rear brake cable, etc.
P73/671	Watson, J. June 28, 1973	Westwood Import Co. Inc.	67/79012, etc.	Item 748.20 28%	Item 774.60 17%	Armbee Corporation et al. v. U.S. (C.D. 3278) Zunold Trading Corporation et al. v. U.S. (C.D. 3279)	Baltimore Artificial flowers, etc.
P73/672	Maletz, J. June 28, 1973	C. Itoh & Co. (America), Inc., et al.	69/44861, etc.	Item 771.55 16%	Item 771.42 10%	Sekisui Products, Inc. v. U.S. (C.D. 3385)	New York P.V.C. sheets made or cut into rectangular pieces over 15" in width and over 18" in length, wholly or almost wholly of plastics, flexible and unsupported, not cellulosic
P73/673	Maletz, J. June 28, 1973	Eric Sobotka Co., Inc.	69/37957, etc.	Item 711.88 22%, 19.5%, 17.5% and 15%	Item 678.50 10%, 9%, 8% and 7%	Agreed statement of facts	New York "Micromanipulators" (machines used for moving or manipulating specimens while being viewed under a microscope)

Decisions of the United States Customs Court

Abstracts

Abstracted Reappraisement Decisions

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	UNIT OF VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R73/178	Maletz, J. June 25, 1973	Otagiri Mercantile Co., Inc.	R69/9391	Export value: Appraised values, without buying commission	Not stated	Judgment on the pleadings	New York All merchandise on Entry No. 803643
R73/179	Maletz, J. June 25, 1973	Otagiri Mercantile Co., Inc.	R69/9395	Export value: Appraised values, without buying commission	Not stated	Judgment on the pleadings	New York All merchandise on Entry No. 817505
R73/180	Maletz, J. June 26, 1973	Otagiri Mercantile Co., Inc.	R68/1625	Export value: Appraised values, without buying commission	Not stated	Judgment on the pleadings	New York All merchandise on Entry No. 1127808
R73/181	Maletz, J. June 26, 1973	Otagiri Mercantile Co., Inc.	R68/2196	Export value: Appraised values, without buying commission	Not stated	Judgment on the pleadings	New York All merchandise on Entry No. 750873
R73/182	Maletz, J. June 26, 1973	Otagiri Mercantile Co., Inc.	R68/2813	Export value: Appraised values, without buying commission	Not stated	Judgment on the pleadings	New York All merchandise on Entry No. 793935

R73/183	Re, J. June 27, 1973	Plywood & Door Midwest Corporation	R64/23041	Export value: Appraised unit value, set forth in invoices, less invoiced ocean freight and insurance, prorated, plus (where deducted in appraisement) invoiced loading charges, prorated	Not stated	Plywood & Door Northern Corporation v. U.S. (R.D. 10863)	Philadelphia Birch plywood
R73/184	Re, J. June 27, 1973	Plywood & Door Northern Corporation	R62/15404, etc.	Export value: Unit value indicated on entry papers in red ink, less invoiced ocean freight and insurance, prorated	Not stated	Plywood & Door Northern Corporation v. U.S. (R.D. 10863)	Philadelphia Birch plywood
R73/185	Re, J. June 27, 1973	Plywood & Door Northern Corporation	R64/5199, etc.	Export value: Unit value indicated on entry papers in red ink, less invoiced ocean freight and insurance, prorated	Not stated	Plywood & Door Northern Corporation v. U.S. (R.D. 10863)	Philadelphia Birch plywood
R73/186	Richardson, J. June 28, 1973	Estee Candy Co., Inc.	R65/19686, etc.	Export value: Invoiced unit c.i.f. prices, less invoiced sea freight and marine insurance charges	Not stated	Estee Candy Co., Inc. v. U.S. (R.D. 11719)	New York Dietetic baked goods

Judgment of the United States Customs Court in Appealed Case

JUNE 27, 1973

APPEAL 5534.—Service Afloat, Inc., and Howard Hartry, Inc. *v.* United States.—"GRAND BANKS" PLEASURE BOAT, REAPPRAISEMENT OF.—A.R.D. 311. Appeal dismissed May 16, 1973.

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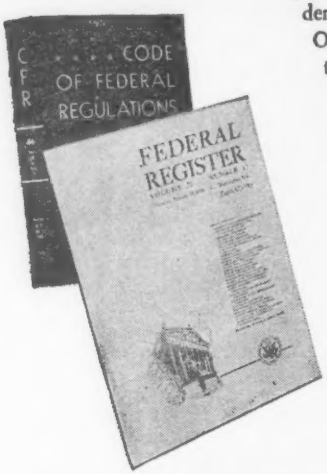

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